



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/675,997	09/29/2000	Will A. Egner	NORR-0009-US(13212RRUS02U	2652

7590 05/14/2003

Dan C Hu
Trop Pruner & Hu PC
Ste 100
8554 Katy Freeway
Houston, TX 77024

EXAMINER

EWART, JAMES D

ART UNIT

PAPER NUMBER

2683

DATE MAILED: 05/14/2003

4

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/675,997

Applicant(s)

EGNER ET AL.

Examiner

James D Ewart

Art Unit

2683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-42 is/are rejected.
- 7) ☒ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Application/Control Number: 09/675,997

Art Unit: 2683

Claim Objections

1. Claim 7 is objected to because of the following informalities: “determining using” should just be “using”. Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. Claim 27 recites the limitation "the group". There is insufficient antecedent basis for this limitation in the claim.
3. Claim 30 recites the limitation "the advertising information". There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 101

Claims 38-40 are rejected under 35 U.S.C. 101 because: the claimed invention is directed to non-statutory subject matter. Examiners reasoning:

(A) The body of the claim is related to the instructions and does nothing to further limit the claim, it is descriptive language about what the instructions are.

(B) Taking this into account, the claim only deals with a data signal on a carrier wave only, which is mere data or nonfunctional descriptive material.

(C) Furthermore, the identification and receiving steps are merely storage and transformation steps, and no pre/post computer process activity takes place.

All three reasons make this a legitimate 101 rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless – (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 1, 7-10, 12, 18, 20 - 28 and 29 are rejected under 35 U.S.C. 102(e) as being anticipated by Hollenberg (U.S. Patent No. 6,091,956).

Referring to claims 1, 18 and 29, Hollenberg discloses a method of communications, comprising: determining a location of a user (Column 7, Lines 4-8); and sending information to present to the user on a presentation device in the proximity of the user based on the determined location (Column 7, Lines 13-40).

Referring to claim 7, Hollenberg further discloses determining the location of the user comprises using information from a local tracking system within a predetermined geographic region (Column 4, Lines 52-61).

Referring to claim 8, Hollenberg further discloses wherein determining the location of the user comprises determining the location within a facility (Column 4, Lines 52-61 and Column 7, Lines 20-40).

Referring to claim 9, Hollenberg further discloses wherein determining the location is based on a location of a tracking device (Column 4, Lines 52-61). Since low power is used the tracking device must be within the vicinity of the tracking system.

Referring to claims 10, 22 and 23, Hollenberg further discloses wherein determining the location is based on communication of signals between the tracking device and a network of antennas (Column 4, Lines 52-61).

Referring to claims 12 and 24, Hollenberg further discloses wherein sending the information comprises sending the information on one of a plurality of presentation devices near the user (Column 7, Lines 31-40).

Referring to claim 21, Hollenberg further discloses wherein the information to present on the device comprises one of video data and image data (Figure 2).

Referring to claim 25, Hollenberg further discloses wherein the controller is adapted to retrieve location information of a plurality of users (Figure 1).

Referring to claim 27, Hollenberg further discloses wherein the location information identifies the location of the user in a facility selected from the group consisting of an entertainment facility, a retail facility, a business facility, an educational facility, and a governmental facility (Column 4, Lines 52-61 and Column 7, Lines 20-35).

Referring to claim 28, Hollenberg further discloses an interface adapted to communicate over a network with a sub-system comprising the device (Column 7, Lines 31-36). Store owned devices used by customers would be considered sub-system. It really wouldn't be a system without the devices.

5. Claims 41 and 42 are rejected under 35 U.S.C. 102(e) as being anticipated by Ogasawara (U.S. Patent No. 6,513,015).

Referring to claim 41, Ogasawara teaches a system comprising: a controller adapted to identify a location of a person (Column 10, Lines 51-57) and to receive images of at least one of the person and an environment in the proximity of the person, the controller adapted to communicate the received images to a remote node (Column 3, Lines 65-67).

Referring to claim 42, Ogasawara further teaches comprising a sub-system to track the location of the person (Column 10, Lines 51-57) and a plurality of cameras (Column 3, Lines 23-27), the controller adapted to receive images from different ones of the plurality of

cameras based on the where the person is located (Column 3, Lines 23-27).

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless – (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 38 – 40 are rejected under 35 U.S.C. 102(e) as being anticipated by DeTemple et al. (U.S. Patent No. 5,572,653).

Referring to claim 38, DeTemple et al teaches a data signal embodied in a carrier wave and containing instructions that when executed cause a system to: identify a location of a user (Column 3, Lines 10-13); and receive data collected from one or more input devices in the proximity of the user (Column 8, Lines 20-30).

Referring to claim 39, DeTemple et al further teaches wherein the instructions when executed cause the system to further store the data received from a plurality of the input devices as the user changes location (Column 2, Lines 54-63).

Referring to claim 40, DeTemple et al further teaches wherein the instructions when executed cause the system to store the received data in an album (Column 8, Lines 25-30). Merriam Webster's Collegiate Dictionary 10th edition defines album as a collection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2, 3, 4, 19, 20, 30, and 32 are rejected under 35 USC 103(a) as being unpatentable over Hollenberg and further in view of Owensby (U.S. Patent Pub. No. 2002/0077130).

Referring to claims 2, 19 and 32, Hollenberg teaches the limitations of claim 2, 19 and 32, but does not teach determining from a user profile information of interest to the user.

Owensby teaches determining from a user profile information of interest to the user (0010, Lines 12-16). Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the art of Hollenberg with the teachings of Owensby of determining from a user profile information of interest to the user to provide targeted messages to a customer (0010, Lines 1-2)

Referring to claim 3, Owensby further teaches sending the information comprises sending the determined information (0010).

Referring to claim 4, 20 and 30, Hollenberg further teaches wherein sending the information comprises sending advertising information (Column 7, Line 35).

8. Claim 5, 6, 33, and 34 is rejected under 35 USC 103(a) as being unpatentable over Hollenberg and in view of Owensby and further in view of DeTemple et al (U.S. Patent No. 5,572,653).

Referring to claims 5, 6, 33 and 34, Hollenberg and Owensby teach the limitations of claim 5, 6, 33, and 34, but do not teach updating the user profile based on actions of the user. DeTemple et al teaches updating the user profile based on actions/products purchased of the user (Column 8, Lines 20-30). Therefore at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the art of Hollenberg and Owensby with the teachings of DeTemple et al of updating the user profile based on actions of the user to produce management reports (Column 9, Line 35)

9. Claims 11, 35, 36 and 37 are rejected under 35 USC 103(a) as being unpatentable over Hollenberg and further in view of DeTemple et al (U.S. Patent No. 5,572,653).

Referring to claim 11, Hollenberg teaches the limitations of claim 11, but does not teach a separate tracking device. DeTemple et al teaches a separate tracking device (Column 8, Lines 20 – 29). Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the art of Hollenberg with the teachings of DeTemple et al of using a separate tracking device to track the customer via a device which is issued to the customer by the store (Column 8, Lines 24-26).

Referring to claim 35, Hollenberg teaches the limitations of claim 11, but does not teach collect information identifying retail activities of the user. DeTemple et al teaches collecting information identifying retail activities/ products purchased of the user (Column 8, Lines 20 – 29). Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the art of Hollenberg with the teachings of DeTemple et al of collecting information identifying retail activities/ products purchased of the user to produce management reports (Column 9, Lines 34-37).

Referring to claim 36, DeTemple et al further teaches wherein the retail activities comprise visits to retail outlets and purchases of goods or services (Column 8, Lines 20 – 29).

Referring to claim 37, DeTemple et al further teaches wherein the instructions when executed cause the system to further communicate the collected information to a retail entity (Figure 1).

10. Claims 13 and 26 are rejected under 35 USC 103(a) as being unpatentable over Hollenberg and further in view of Shapira (U.S. Patent No. 5,086,394).

Referring to claims 13 and 26, Hollenberg teaches the limitations of claims 13 and 26, but does not teach determining one or more common interests of the users, wherein sending the information comprises sending information based on the one or more common interests. Shapira teaches determining one or more common interests of the users, wherein sending the information comprises sending information based on the one or more common interests (Column 3, Lines 22-

26). Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the art of Hollenberg with the teachings of Shapira of determining one or more common interests of the users, wherein sending the information comprises sending information based on the one or more common interests to bring together people, who, by their own standards, are desirous of meeting (Column 2, Lines 13-16).

11. Claims 14 – 16 are rejected under 35 USC 103(a) as being unpatentable over Hollenberg and further in view of Ogasawara (U.S. Patent No. 6,513,015).

Referring to claim 14, Hollenberg teaches the limitations of claim 14, but does not teach receiving data collected from one or more input devices of activities of the user (Figure 1). Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the art of Hollenberg with the teachings of Ogasawara of receiving data collected from one or more input devices of activities of the user to generate one-on-one marketing programs specifically directed to that customer (Column 5, Lines 37-38).

Referring to claim 15, Ogasawara further teaches wherein receiving the data comprises receiving data collected from one or more input devices in the proximity of the user (Figure 1).

Referring to claim 16, Ogasawara further teaches wherein receiving the data comprises receiving data collected using one or more video cameras (Figure 1).

12. Claim 17 is rejected under 35 USC 103(a) as being unpatentable over Hollenberg and Ogasawara and further in view of Narasimhan et al (U.S. Patent No. 6,237,145).

Referring to claim 17, Hollenberg and Ogasawara teach the limitations of claim 17 including storing the received album (Ogasawara, Column 14, Lines 22-30), but do not teach that it is accessible by the user. Narasimhan et al teaches providing profile access to the user (Column 8, Lines 4-13). Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the art of Hollenberg and Ogasawara with the teachings of Narasimhan et al of providing profile access to the user so that the user may update his or her own profile as necessary (Column 8, lines 4-5).

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Granger et al. U.S. Patent Pub. No. 2002/0007306 discloses in-vehicle promotions system.

Hamilton et al. U.S. Patent Pub. No. 2002/0057212 discloses multimodal multimedia transportation information system.

Jamison et al. U.S. Patent No. 6,401,032 discloses automated touring information systems and methods.

Ogasawara U.S. Patent No. 6,123,259 discloses electronic shopping system including customer relocation recognition.

Application/Control Number: 09/675,997

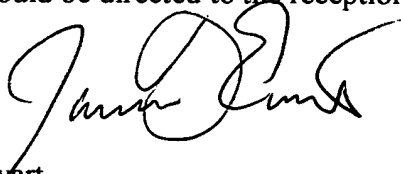
Art Unit: 2683

Tracy et al. U.S. Patent No. 6,550,672 discloses method and system for presenting item information using a portable data terminal.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James D Ewart whose telephone number is (703) 305-4826. The examiner can normally be reached on M-F 7am - 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on (703)308-5318. The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-9508 for regular communications and (703)305-9508 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.



Ewart
May 9, 2003



WILLIAM TROST
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600